

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SURE FIT HOME PRODUCTS, LLC et al.,	:	
Plaintiffs,	:	
	:	21 Civ. 2169 (LGS)
-against-	:	
	:	<b><u>ORDER</u></b>
MAYTEX MILLS, INC.,	:	
Defendant.	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, the Order, dated July 12, 2021, directed the parties to submit a proposed plan for (1) production of certain categories of documents relevant to claim construction and (2) follow-on claim construction and other case management deadlines (Dkt. No. 84).

WHEREAS, the parties have submitted their plan, where they now dispute whether Defendant must produce its full claim construction contentions pursuant to one of Plaintiffs' interrogatories.

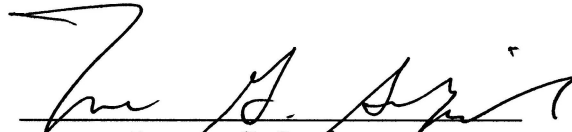
WHEREAS, at the May 20, 2021, conference, the Court stated that it required claim construction briefing to ascertain which portions of the drawings in the asserted design patent were functional, but proposed that the process be abbreviated to a brief discovery period and exchange of briefs, rather than the full discovery schedule in the Court's form Patent Case Management Plan and Scheduling Order -- which requires exchange of terms to be construed, preliminary constructions, full discovery, submission of final constructions and a hearing (Dkt. No. 63 at 6:23-8:5). The parties agreed (Dkt. No. 63 at 8:6-9:19). The Court inquired as to whether the parties needed to "exchange *preliminary claim construction* and extrinsic evidence," or if the parties were "past that point" (Dkt. No. 63 at 9:20-24) (emphasis added). Plaintiff stated "We agree. We believe we're past that point. It's not necessary" (Dkt. No. 63 at 10:1-2).

Accordingly, the Case Management Plan and Scheduling Order set an opening claim construction brief for Plaintiffs and an opposition for Defendant (Dkt. 53). After Plaintiffs raised issues with their ability to respond to Defendant's constructions, a First Amended CMP issued, permitting Plaintiffs a reply brief as they requested (Dkt. No. 72).

WHEREAS, Plaintiffs' request for an interrogatory response containing all of Defendant's proposed constructions is not warranted. The claim construction issues in this matter are not so complex as to require exchanges of claim constructions before briefing, as the parties have acknowledged. Accordingly, it is hereby

**ORDERED** that Plaintiffs' request for an order compelling Defendant to respond to Plaintiffs' Interrogatory Number 1 is **denied**. A revised Case Management Plan and Scheduling Order will issue separately.

Dated: July 16, 2021  
New York, New York



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**